

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Global Reseller Expedited Package Contracts
Negotiated Service Agreement

Docket No. MC2014-38

Competitive Product Prices
Global Reseller Expedited Package Contracts 4
(MC2014-38)
Negotiated Service Agreement

Docket No. CP2014-67

PUBLIC REPRESENTATIVE COMMENTS ON POSTAL SERVICE REQUEST
TO ADD GLOBAL RESELLER EXPEDITED PACKAGE CONTRACTS 4
TO THE COMPETITIVE PRODUCT LIST AND NOTICE OF FILING A
GLOBAL RESELLER EXPEDITED PACKAGE CONTRACTS 4
NEGOTIATED SERVICE AGREEMENT

(August 20, 2014)

The Public Representative hereby provides comments pursuant to Order No. 2151.¹ In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on a Postal Service Request to add Global Reseller Expedited Package (GREP) Contracts 4 to the competitive product list, and to include a GREP Contracts 4 negotiated service agreement (Agreement) within the product.²

Included as attachments to the Request is a redacted version of Governors' Decision No. 11-6, which authorizes the Request; a revised version of section 2510.7 of the Mail Classification Schedule (MCS) concerning Global Reseller Expedited Package contracts; a Statement of Supporting Justification, as required by 39 C.F.R. §3020.32, providing additional support for the GREP Contracts 4 product; and, a redacted version

¹ PRC Order No. 2151, Notice and Order Concerning the Addition of Global Reseller Expedited Package Contracts 4 to the Competitive Product List, August 13, 2014.

² Request of United States Postal Service to Add Global Reseller Expedited Package Contracts 4 to the Competitive Products List and Notice of Filing a Global Reseller Expedited Package 4 Negotiated Service Agreement, August 8, 2014 (Request).

of the Agreement that is the subject of this docket. The Request also includes supporting financial workpapers for the Agreement.

Background. Prices and classifications not of general applicability for GREP agreements were previously established by Governors' Decision No. 10-1, issued March 24, 2010.³ In Order No. 445, Commission approved the addition of the Global Reseller Expedited Package Contracts 1 product (MC2010-21) to the competitive product list, and included a GREP Contracts 1 agreement (CP2010-36) within the product.⁴ The Commission subsequently included a number of GREP Contracts 1 agreements within the product.⁵ In Order No. 1746, Commission approved the addition of the Global Reseller Expedited Package Contracts 2 product (MC2013-51) to the competitive product list, and included a GREP Contracts 2 agreement (CP2013-64) within the product.⁶ More recently, the Commission approved Order No. 1870, which permitted the addition of the Global Reseller Expedited Package Contracts 3 product

³ The Postal Service's Request cites Governors' Decision No. 10-1 for the authority to establish prices and classifications for GREP agreements. Request at 2-3, *citing* Request of the United States Postal Service to Add Global Reseller Expedited Package Contracts to the Competitive Products List and Notice of Filing (Under Seal) of Contract and Enabling Governors' Decision, Docket Nos. MC2010-21 and CP2010-36, March 29, 2010, Attachment 2. However, in this proceeding, the Postal Service includes without explanation a redacted version of another Governors' Decision (Governors' Decision No. 11-6) as Attachment 2A to the Request.

⁴ PRC Order No. 445, Order Concerning Global Reseller Expedited Package Contracts Negotiated Service Agreement, Docket Nos. MC2010-21 and CP2010-36, April 22, 2010.

⁵ PRC Order No. 561, Order Approving an Additional Global Reseller Expedited Package Contract Negotiated Service Agreement, Docket No. CP2011-1, October 15, 2010; PRC Order No. 648, Order Approving an Additional Global Reseller Expedited Package Contract Negotiated Service Agreement, Docket No. CP2011-55, January 13, 2011; PRC Order No. 755, Order Approving Global Reseller Expedited Package Contract Negotiated Service Agreement, Docket No. CP2011-65, June 30, 2011; PRC Order No. 811, Order Approving an Additional Global Reseller Expedited Package Contracts 1 Negotiated Service Agreement, Docket No. CP2011-67, August 18, 2011; PRC Order No. 1177, Order Approving Additional Global Reseller Expedited Package Contract 1 Negotiated Service Agreement, Docket No. CP2012-14, January 27, 2012; PRC Order No. 1337, Order Approving an Additional Global Reseller Expedited Package Contract Negotiated Service Agreement, Docket No. CP2012-21, May 9, 2012; PRC Order No. 1571, Order Approving an Additional Global Reseller Expedited Package Contracts 1 Negotiated Service Agreement, Docket No. CP2013-20, December 10, 2012; PRC Order No. 1669, Order Approving and Additional Global Reseller Expedited Package Contracts 1 Negotiated Service Agreement, Docket No. CP2013-49, February 26, 2013; and, PRC Order No. 2004, Order Approving an Additional Global Reseller Expedited Package Contracts 1 Negotiated Service Agreement, Docket No. CP2014-29, February 28, 2014.

⁶ PRC Order No. 1746, Order Adding Global Reseller Expedited Package Contracts 2 to the Competitive Product List Negotiated Service Agreement, Docket Nos. MC2013-51 and CP2013-64, June 13, 2013.

(MC2013-64) to the competitive product list, and the inclusion of a GREP Contracts 3 agreement (CP2013-84) within the product.⁷

Agreements within the GREP Contracts 1 product offer discounted prices for Priority Mail Express International (PMEI) and Priority Mail International (PMI). For the GREP Contracts 2 product, agreements offer discounted prices for PMEI, PMI and Outbound Single-Piece First-Class Package International Service (FCPIS). For the GREP Contracts 3 product, agreements offer discounted prices for PMI, PMEI and FCPIS, as well as Global Express Guaranteed (GXG). As presented in the Postal Service's Request, agreements within the GREP Contracts 4 product would offer discounted prices for the above referenced shipping services, and Priority Mail International Regional Rate Boxes (PMI RRB). Request at 6. GREP agreements within these products are concluded with U.S.-based consolidators, freight forwarders and large shipping companies known as resellers, which in turn market these shipping services at discounted prices to their customers, especially small and medium-sized businesses. To qualify for a GREP agreement, a reseller must be capable of tendering at least 5,000 pieces of international mail, or paying at least \$100,000 in international postage, to the Postal Service.

The Agreement to be included in the GREP Contracts 4 product is a successor to the reseller's current GREP Contracts 1 agreement, which was filed in Docket No. CP2012-14, and is scheduled to expire on August 31, 2014. *Id.* Accordingly, the intended effective date of the Agreement is September 1, 2014. *Id.* The Agreement is to expire on February 5, 2020, unless terminated sooner. *Id.*, Attachment 4 at 7 (Articles 11 and 12).

The Postal Service asserts that GREP Contracts 4 is a competitive product in conformance with the classification criteria of 39 U.S.C. § 3642, and that the "financial data filed under seal . . . establishe[s] that this GREP Contracts 4 agreement is in compliance with the requirements of 39 U.S.C. § 3633." *Id.* at 7 and 9. The Postal

⁷ PRC Order No. 1870, Order Adding Global Reseller Expedited Package Contracts 3 to the Competitive Product List and Approval of Designation as Baseline Agreement, Docket Nos. MC2013-64 and CP2013-84, November 7, 2013.

Service therefore requests that the GREP Contracts 4 product be added to the competitive product list, and the Agreement be included within the GREP Contracts 4 product. *Id.* at 9. The Postal Service also requests that the Agreement be considered the “baseline” agreement for future functional equivalency analysis with respect to subsequent GREP agreements proposed to be included within the GREP Contracts 4 product. *Id.*

COMMENTS

The Public Representative has reviewed the Postal Service’s Request, the GREP Contracts 4 Agreement, revisions to the text of section 2510.7 of the MCS, the Statement of Supporting Justification, and the financial workpapers. Based upon that review, the Public Representative concludes that the GREP Contracts 4 product is appropriately classified as competitive and should be added to the competitive product list. In addition, the negotiated prices in the GREP Contracts 4 Agreement should generate sufficient revenues to cover costs.

Product List Assignment. Pursuant to 39 U.S.C. § 3642(b)(1), the Commission must determine whether the GREP Contracts 4 product qualifies as market dominant, or is otherwise excluded from the postal monopoly, when assigning the product to either the market dominant or competitive product list. The Commission must also consider the availability and nature of private sector enterprises engaged in delivering the product, the views of those who use the product, and the likely impact on small business concerns. 39 U.S.C. § 3642(b)(3); 39 C.F.R. §3020.32.

The Postal Service states that the criteria of section 3642(b) have been previously addressed in prior dockets concerning the addition of Global Reseller Expedited Package Contracts 2 and 3 products to the competitive product list. *Id.* at 7. In this regard, the Postal Service observes that in Order No. 43, the Commission determined that all negotiated service agreements concerning outbound international mail are to be assigned to the competitive category. *Id.* at 8 [citation omitted]. Moreover, the Postal Service maintains that the Statement of Supporting Justification, which represents a revision of previous Statements included with requests to add the

prior GREP Contracts products to the MCS, addresses the additional considerations listed in 39 U.S.C. § 3642(b)(3).

Having considered the Postal Service's Request and supporting statement, the Public Representative agrees that GREP Contracts 4 is appropriately classified as competitive, and notes that the Commission has found the previous explanatory material to be sufficient. The Public Representative also agrees that the addition of Priority Mail International Regional Rate Boxes shipping service to GREP Contracts 4 product does not alter the conclusion that the product is competitive.

Requirements of 39 U.S.C. § 3633. 39 U.S.C. § 3633 requires that prices for competitive products must cover each product's attributable costs, not result in the subsidization of competitive products by market dominant products, and enable competitive products as a whole to contribute an appropriate share to the institutional costs of the Postal Service. In addition, the Commission requires that each contract included within a GREP product must cover its attributable costs.⁸

In this proceeding, the Postal Service's financial workpapers indicate that the negotiated prices in the GREP Contracts 4 Agreement should generate sufficient revenues to cover its attributable costs. Consequently, the Public Representative concludes that, as the only agreement within the product, the GREP Contracts 4 product should comply with 39 U.S.C. § 3633(a)(2), and should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Moreover, the GREP Contracts 4 product should improve the likelihood that competitive products as a whole contribute an appropriate share to the Postal Service's institutional costs, consistent with 39 U.S.C. § 3633(a)(3).

⁸ Section 2510.7.1(d) of the Mail Classification Schedule, posted January 27, 201, with updates through July 31, 2014.

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

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